



# House of Representatives

## File No. 779

General Assembly

January Session, 2001

**(Reprint of File Nos. 253 and 705)**

Substitute House Bill No. 5585  
As Amended by House Amendment  
Schedule "B"

Approved by the Legislative Commissioner  
May 18, 2001

***AN ACT CONCERNING THE USE OF TRANSACTION SCAN DEVICES  
BY SELLERS OF ALCOHOLIC LIQUOR AND TOBACCO AND THE  
IMPORTATION OF ALCOHOLIC LIQUOR.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 30-86 of the general statutes is repealed and the  
2 following is substituted in lieu thereof:

3 (a) As used in this section:

4 (1) "Cardholder" means any person who presents a driver's license  
5 or an identity card to a permittee or permittee's agent or employee, to  
6 purchase or receive alcoholic liquor from such permittee or permittee's  
7 agent or employee;

8 (2) "Identity card" means an identification card issued in accordance  
9 with the provisions of section 1-1h;

10 (3) "Transaction scan" means the process by which a permittee or  
11 permittee's agent or employee checks, by means of a transaction scan  
12 device, the validity of a driver's license or an identity card; and

13     (4) "Transaction scan device" means any commercial device or  
14     combination of devices used at a point of sale that is capable of  
15     deciphering in an electronically readable format the information  
16     encoded on the magnetic strip or bar code of a driver's license or an  
17     identity card.

18     (b) Any permittee or any servant or agent of a permittee who sells  
19     or delivers alcoholic liquor to any minor, or to any intoxicated person,  
20     or to any habitual drunkard, knowing the person to be such an  
21     habitual drunkard, shall be subject to the penalties of section 30-113.  
22     Any person who sells, ships, delivers or gives any such liquors to such  
23     minor, by any means, including, but not limited to, the Internet or any  
24     other on-line computer network, except on the order of a practicing  
25     physician, shall be fined not more than one thousand five hundred  
26     dollars or imprisoned not more than eighteen months, or both. The  
27     provisions of this section shall not apply (1) to a sale, shipment or  
28     delivery made to a person over age eighteen who is an employee or  
29     permit holder under section 30-90a and where such sale, shipment or  
30     delivery is made in the course of such person's employment or  
31     business, (2) to a sale, shipment or delivery made in good faith to a  
32     minor who practices any deceit in the procurement of an identity card  
33     issued in accordance with the provisions of section 1-1h, who uses or  
34     exhibits any such identity card belonging to any other person or who  
35     uses or exhibits any such identity card that has been altered or  
36     tampered with in any way, or (3) to a shipment or delivery made to a  
37     minor by a parent, guardian or spouse of the minor, provided such  
38     parent, guardian or spouse has attained the age of twenty-one and  
39     provided such minor possesses such alcoholic liquor while  
40     accompanied by such parent, guardian or spouse.

41     (c) (1) A permittee or permittee's agent or employee may perform a  
42     transaction scan to check the validity of a driver's license or identity  
43     card presented by a cardholder as a condition for selling, giving away  
44     or otherwise distributing alcoholic liquor to the cardholder.

45     (2) If the information deciphered by the transaction scan performed

46 under subdivision (1) of this subsection fails to match the information  
47 printed on the driver's license or identity card presented by the  
48 cardholder, or if the transaction scan indicates that the information so  
49 printed is false or fraudulent, neither the permittee nor any permittee's  
50 agent or employee shall sell, give away or otherwise distribute any  
51 alcoholic liquor to the cardholder.

52 (3) Subdivision (1) of this subsection does not preclude a permittee  
53 or permittee's agent or employee from using a transaction scan device  
54 to check the validity of a document presented as identification other  
55 than a driver's license or an identity card, if the document includes a  
56 bar code or magnetic strip that may be scanned by the device, as a  
57 condition for selling, giving away or otherwise distributing alcoholic  
58 liquor to the person presenting the document.

59 (d) (1) No permittee or permittee's agent or employee shall  
60 electronically or mechanically record or maintain any information  
61 derived from a transaction scan, except the following: (A) The name  
62 and date of birth of the person listed on the driver's license or identity  
63 card presented by a cardholder; (B) the expiration date and  
64 identification number of the driver's license or identity card presented  
65 by a cardholder.

66 (2) No permittee or permittee's agent or employee shall use a  
67 transaction scan device for a purpose other than the purposes specified  
68 in subsection (c) of this section or subsection (d) of section 53-344, as  
69 amended by this act.

70 (3) No permittee or permittee's agent or employee shall sell or  
71 otherwise disseminate the information derived from a transaction scan  
72 to any third party for any purpose, including, but not limited to, any  
73 marketing, advertising or promotional activities, except that a  
74 permittee or permittee's agent or employee may release that  
75 information pursuant to a court order.

76 (4) Nothing in subsection (c) of this section or this subsection  
77 relieves a permittee or permittee's agent or employee of any

78 responsibility to comply with any other applicable state or federal laws  
79 or rules governing the sale, giving away or other distribution of  
80 alcoholic liquor.

81 (5) Any person who violates this subsection shall be subject to a civil  
82 penalty of not more than one thousand dollars.

83 (e) (1) In any prosecution of a permittee or permittee's agent or  
84 employee for selling alcoholic liquor to a minor in violation of  
85 subsection (b) of this section, it shall be an affirmative defense that all  
86 of the following occurred: (A) A cardholder attempting to purchase or  
87 receive alcoholic liquor presented a driver's license or an identity card;  
88 (B) a transaction scan of the driver's license or identity card that the  
89 cardholder presented indicated that the license or card was valid; and  
90 (C) the alcoholic liquor was sold, given away or otherwise distributed  
91 to the cardholder in reasonable reliance upon the identification  
92 presented and the completed transaction scan.

93 (2) In determining whether a permittee or permittee's agent or  
94 employee has proven the affirmative defense provided by subdivision  
95 (1) of this subsection, the trier of fact in such prosecution shall consider  
96 that reasonable reliance upon the identification presented and the  
97 completed transaction scan may require a permittee or permittee's  
98 agent or employee to exercise reasonable diligence and that the use of  
99 a transaction scan device does not excuse a permittee or permittee's  
100 agent or employee from exercising such reasonable diligence to  
101 determine the following: (A) Whether a person to whom the permittee  
102 or permittee's agent or employee sells, gives away or otherwise  
103 distributes alcoholic liquor is twenty-one years of age or older; and (B)  
104 whether the description and picture appearing on the driver's license  
105 or identity card presented by a cardholder is that of the cardholder.

106 Sec. 2. Section 53-344 of the general statutes is repealed and the  
107 following is substituted in lieu thereof:

108 (a) As used in this section:

109     (1) "Cardholder" means any person who presents a driver's license  
110     or an identity card to a seller or seller's agent or employee, to purchase  
111     or receive tobacco from such seller or seller's agent or employee;

112     (2) "Identity card" means an identification card issued in accordance  
113     with the provisions of section 1-1h;

114     (3) "Transaction scan" means the process by which a seller or seller's  
115     agent or employee checks, by means of a transaction scan device, the  
116     validity of a driver's license or an identity card; and

117     (4) "Transaction scan device" means any commercial device or  
118     combination of devices used at a point of sale that is capable of  
119     deciphering in an electronically readable format the information  
120     encoded on the magnetic strip or bar code of a driver's license or an  
121     identity card.

122     [(a)] (b) Any person who sells, gives or delivers to any minor under  
123     eighteen years of age tobacco, unless the minor is delivering or  
124     accepting delivery in [his] such person's capacity as an employee, in  
125     any form shall be fined not more than two hundred dollars for the first  
126     offense, not more than three hundred fifty dollars for a second offense  
127     within an eighteen-month period and not more than five hundred  
128     dollars for each subsequent offense within an eighteen-month period.

129     [(b)] (c) Any person under eighteen years of age who purchases or  
130     misrepresents [his] such person's age to purchase tobacco in any form  
131     shall be fined not more than fifty dollars for the first offense and not  
132     less than fifty dollars nor more than one hundred dollars for each  
133     subsequent offense.

134     (d) (1) A seller or seller's agent or employee may perform a  
135     transaction scan to check the validity of a driver's license or identity  
136     card presented by a cardholder as a condition for selling, giving away  
137     or otherwise distributing tobacco to the cardholder.

138     (2) If the information deciphered by the transaction scan performed

139 under subdivision (1) of this subsection fails to match the information  
140 printed on the driver's license or identity card presented by the  
141 cardholder, or if the transaction scan indicates that the information so  
142 printed is false or fraudulent, neither the seller nor any seller's agent or  
143 employee shall sell, give away or otherwise distribute any tobacco to  
144 the cardholder.

145 (3) Subdivision (1) of this subsection does not preclude a seller or  
146 seller's agent or employee from using a transaction scan device to  
147 check the validity of a document other than a driver's license or an  
148 identity card, if the document includes a bar code or magnetic strip  
149 that may be scanned by the device, as a condition for selling, giving  
150 away or otherwise distributing tobacco to the person presenting the  
151 document.

152 (e) (1) No seller or seller's agent or employee shall electronically or  
153 mechanically record or maintain any information derived from a  
154 transaction scan, except the following: (A) The name and date of birth  
155 of the person listed on the driver's license or identity card presented by  
156 a cardholder; (B) the expiration date and identification number of the  
157 driver's license or identity card presented by a cardholder.

158 (2) No seller or seller's agent or employee shall use a transaction  
159 scan device for a purpose other than the purposes specified in  
160 subsection (d) of this section or subsection (c) of section 30-86, as  
161 amended by this act.

162 (3) No seller or seller's agent or employee shall sell or otherwise  
163 disseminate the information derived from a transaction scan to any  
164 third party, including, but not limited to, selling or otherwise  
165 disseminating that information for any marketing, advertising or  
166 promotional activities, but a seller or seller's agent or employee may  
167 release that information pursuant to a court order.

168 (4) Nothing in subsection (d) of this section or this subsection  
169 relieves a seller or seller's agent or employee of any responsibility to  
170 comply with any other applicable state or federal laws or rules

171 governing the sale, giving away or other distribution of tobacco.

172 (5) Any person who violates this subsection shall be subject to a civil  
173 penalty of not more than one thousand dollars.

174 (f) (1) In any prosecution of a seller or seller's agent or employee for  
175 a violation of subsection (b) of this section, it shall be an affirmative  
176 defense that all of the following occurred: (A) A cardholder attempting  
177 to purchase or receive tobacco presented a driver's license or an  
178 identity card; (B) a transaction scan of the driver's license or identity  
179 card that the cardholder presented indicated that the license or card  
180 was valid; and (C) the tobacco was sold, given away or otherwise  
181 distributed to the cardholder in reasonable reliance upon the  
182 identification presented and the completed transaction scan.

183 (2) In determining whether a seller or seller's agent or employee has  
184 proven the affirmative defense provided by subdivision (1) of this  
185 section, the trier of fact in such prosecution shall consider that  
186 reasonable reliance upon the identification presented and the  
187 completed transaction scan may require a seller or seller's agent or  
188 employee to exercise reasonable diligence and that the use of a  
189 transaction scan device does not excuse a seller or seller's agent or  
190 employee from exercising such reasonable diligence to determine the  
191 following: (A) Whether a person to whom the seller or seller's agent or  
192 employee sells, gives away or otherwise distributes tobacco is eighteen  
193 years of age or older; and (B) whether the description and picture  
194 appearing on the driver's license or identity card presented by a  
195 cardholder is that of the cardholder.

196 Sec. 3. Subsection (a) of section 30-77 of the general statutes is  
197 repealed and the following is substituted in lieu thereof:

198 (a) Any person who, without a permit therefor, except as provided  
199 in section 30-37 or subsection (b) of section 12-436, the provisions of  
200 which shall not be construed as requiring an individual to be  
201 physically present at the point of purchase of alcoholic beverages to  
202 import such alcoholic beverages, or contrary to the provisions of this

203 chapter and the regulations of the Department of Consumer Protection  
204 with respect to the class of permit held by [him] such person,  
205 manufactures or, by sample, by soliciting or procuring orders, or  
206 otherwise, sells or delivers, or offers or exposes for sale or delivery, or  
207 owns or keeps with intent to sell or deliver, or who ships, transports or  
208 imports into this state, any alcoholic liquor, shall be subject to the  
209 penalties prescribed in section 30-113; provided nothing in this section  
210 shall prohibit any common carrier, warehouseman or other lien holder,  
211 or any officer acting under legal process, or any insurance company  
212 that acquires the same as the result of fire, flood or water damage,  
213 from exercising [his or its] the right of such person or such entity to sell  
214 alcoholic liquor under a lien or such process or such acquisition, with  
215 the permission of the department. The provisions of this section shall  
216 not apply to the delivery to a permittee under this chapter of alcoholic  
217 liquor which is legally authorized. The provisions of this section shall  
218 not apply to the shipment into this state of ethyl alcohol intended for  
219 use or used for scientific, mechanical and industrial uses, for use in  
220 hospitals and public institutions, for medicinal purposes in the  
221 manufacture of patented, proprietary, medicinal, pharmaceutical,  
222 antiseptic, toilet, scientific, chemical, mechanical and industrial  
223 preparations or products not sold as a beverage for human  
224 consumption, nor to the shipment of wine to be used in the  
225 manufacture of patented, proprietary or pharmaceutical preparations  
226 or products or in the manufacture of fruit preserves. No such shipment  
227 shall be made except with the approval of the department and only in  
228 such manner as the department prescribes. The department shall  
229 notify the Commissioner of Revenue Services of the approval of any  
230 such shipment.



The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** Potential Minimal Revenue Gain

**Affected Agencies:** Department of Consumer Protection

**Municipal Impact:** None

**Explanation****State Impact:**

The bill as amended permits alcohol and tobacco retailers to use a transaction scanning device to verify the age of a customer by reading the magnetic strip or bar code on a driver's license or identity card, which has no fiscal impact on the state. The bill as amended forbids the sale or distribution of information derived from scanning the cards to third parties. The bill as amended subjects violators to a civil penalty of \$1,000. This may result in a minimal revenue gain, the extent of which cannot be determined as it is dependent on the number of violations that occur. Additionally, the bill as amended permits individuals to import alcoholic beverages from outside Connecticut for their own consumption without having to be physically present at the point of purchase. There is no fiscal impact resulting from this change.

House "B" adds provisions regarding the importation of alcoholic beverages into Connecticut, which results in no fiscal impact.

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**OLR Amended Bill Analysis**

sHB 5585 (as amended by House "B")\*

***AN ACT AUTHORIZING THE USE OF TRANSACTION SCAN DEVICES BY SELLERS OF ALCOHOLIC LIQUOR AND TOBACCO.***

**SUMMARY:**

This bill specifically permits alcohol and tobacco retailers to use a transaction scanning device to verify the age of a customer by reading the magnetic strip or bar code on a driver's license or Department of Motor Vehicle (DMV)-issued identity card. It provides the retailers with an affirmative defense if they sell alcohol or tobacco in reliance on the scan's validity, but prohibits the sale if the information printed on the card is false or fraudulent, or if it does not match the scan results. The bill does not preclude the retailer, as a condition of the sale, from scanning other documents that have a scannable magnetic strip or bar code. But scanning these documents does not constitute an affirmative defense.

The bill restricts how the retailers can use the scan device, restricts the information they can record, and forbids selling or distributing information derived from the scan to third parties. It also specifies that merchants must still comply with other applicable state and federal alcohol and tobacco laws. Violators can be subject to a civil fine of up to \$1,000.

The bill permits individuals to import alcoholic beverages from outside Connecticut for their own consumption without having to be physically present at the point of purchase. It specifies that they will not be subject to penalties that apply to people who dispose of liquor without a permit.

\*House Amendment "B" adds the provision concerning the importation of alcoholic beverages into Connecticut.

EFFECTIVE DATE: October 1, 2001

## **TRANSACTION SCAN DEVICE**

Under the bill, a transaction scan device is any commercial device or combination of devices used at a point of sale that can decipher in electronically readable format information encoded on the magnetic strip or bar code of a driver's license or identity card.

## **AFFIRMATIVE DEFENSE**

Alcoholic liquor permittees, tobacco sellers, and their agents or employees may not be found guilty of selling to a minor if they prove that (1) a cardholder presented a driver's license or DMV-identity card in attempting to buy the liquor or tobacco, (2) their scan of the card indicated it was valid, and (3) the liquor or tobacco was sold in reasonable reliance on the identification and the validity of the scan.

In determining whether a permittee, tobacco seller, an agent or employee has proven an affirmative defense, a court must consider that the use of a scan does not excuse a permittee or seller from exercising reasonable diligence to determine (1) if the customer is 21 years old or older in the case of alcohol or 18 years old or older in the case of tobacco and (2) whether the description and picture on the license or card is that of the cardholder.

## **PURPOSE FOR WHICH SCAN MAY BE USED**

The bill forbids permittees, tobacco sellers, their agents or employees from using a transaction scan device for any purpose other than verifying a customer's age and identity. It prohibits them from recording any information from a driver's license or identity card other than (1) the name and date of birth of the person listed on the license or card and (2) the expiration date and identification number of the license or card. The bill bars permittees, tobacco sellers, their agents, or employees from selling or distributing information derived from a transaction scan to any third party for such purposes as marketing, advertising, or promotional purposes, but allows them to release it if ordered to by a court.

## **BACKGROUND**

### ***Sale to Minors***

Purchasers of alcoholic liquor, wine, or beer must be 21 years old. Purchasers of tobacco products must be 18 years old.

Permittees or their agents who sell alcohol to minors may be fined up to \$1,000 or sentenced to one year in prison, or both, for each offense. Any person who sells tobacco to a minor may be fined up to \$200 for the first offense, up to \$350 for a second offense within an 18-month period, and up to \$500 for each subsequent offense within 18 months.

### **IMPORTATION OF ALCOHOLIC BEVERAGES**

Under current law, alcoholic beverages may be shipped or imported into Connecticut only to licensed distributors or certain federal authorities, with certain exceptions. Those exceptions include individuals who, for their own consumption:

1. import up to five gallons from within the territorial U.S. in any 60-day period; or
2. import up to five gallons from outside the territorial U.S. in any 365-day period.

Such individuals must pay all applicable taxes to the Department of Revenue Services.

The state has traditionally interpreted this law to mean that the person seeking to import the alcoholic beverages must be physically present when making the purchase. Under the bill, purchasers need not be physically present at the point of purchase. The bill specifies that such individuals are exempt from penalties that apply to people who dispose of liquor without a permit.

### **LEGISLATIVE HISTORY**

The House referred the bill (File 253) to the Transportation Committee on April 17. The committee favorably reported the bill on April 19. The House referred the bill to the Judiciary Committee on April 24. The committee reported it favorably on April 25, after replacing language stating that permittees, tobacco sellers, their agents or employees may not be found guilty of selling to minors if they relied on the scan's validity with language stating that such reliance provides them with an affirmative defense.

**COMMITTEE ACTION**

General Law Committee

Joint Favorable Substitute

Yea 17      Nay 0

Transportation Committee

Joint Favorable Report

Yea 21      Nay 0

Judiciary Committee

Joint Favorable Substitute

Yea 38      Nay 1